

[REDACTED]

CERTIFIED MAIL

[REDACTED]

AUG 22 1983

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

The application for exemption and the supporting documents submitted discloses that you were incorporated [REDACTED] pursuant to the Laws of the State of [REDACTED]. Your purpose as stated in your Articles of Incorporation is to receive contributions and engage in activities to collect funds and use these amounts for charitable, literary or educational purposes. You have indicated that you will amend your organizational document to meet 501(c)(3) requirements. The corporation's members consist of the President, Secretary and Treasurer of the [REDACTED]. In effect the [REDACTED] controls the operation of the Corporation. You have stated in your application that the [REDACTED] is not an exempt organization. If the [REDACTED] was tax exempt it would most likely qualify as a social welfare type organization described in section 501(c)(4) of the Code.

Your organization would be funded by contributions and various fund raising activities. You also anticipate considerable income, about [REDACTED]% of your gross income, from the rental of the [REDACTED] to groups for dances, receptions, etc. Your funds would be expended for various charitable activities, however about [REDACTED]% of your gross receipts would be used for payments on mortgage on the [REDACTED].

In your application you described your activities as follows:

"It should be understood that this corporation has been formed merely as a conduit for contributions for the charitable activities carried on by the [REDACTED]. These activities include providing eyeglasses for poor people in the [REDACTED] Area. Additionally, the club is in the process of building a community center for the [REDACTED] for activities such as dances, meetings, receptions and activities of this nature. Any contributions received by the corporation would go toward funding these two activities and Ad Hoc charitable

or educational activities carried on by the club".

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, scientific, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations states that in order for an organization to be exempt under section 501(c)(3) of the Code it must be organized and operated exclusively for one or more purposes specified in such section.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that an organization is operated exclusively for the purposes set out in section 501(c)(3) of the Code only if substantially all of its activities are in furtherance of these purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states that an organization is not organized or operated for any purpose under section 501(c)(3) unless it serves a public rather than a private interest.

Thus to meet the requirements of this subparagraph, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests. Moreover, even though an organization may have exempt purposes, it will not be considered as operating exclusively for such purposes if more than an insubstantial part of its activities serve a private interest.

In Better Business Bureau v. U.S. 326 U.S. 279 (1945), C.T.D. 1950, 1945 C.B. 375, the Supreme Court stated that the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defeat exemption, under Code section 501(c)(3), regardless of the number or importance of truly exempt purposes.

In Revenue Ruling 71-504, as published in Cumulative Bulletin 1971-2 on page 231 a city medical society exempt under IRC 501(c)(6) sought reclassification under IRC 501(c)(3). Among its activities the society maintained an extensive library, provided educational lectures and counseling services, and published a monthly journal containing educational materials. The society also provided patient referral services for its members, maintained a grievance committee to hear complaints and to settle disputes between member doctors, presented the society's views on legislative matters germane to its member's professional interests, conducted a public relations program, and held meetings concerned with matters affecting the promotion and protection of the practice of medicine. The purpose of the second group of activities was neither educational nor charitable in nature. Since the society had substantial noncharitable and noneducational purposes, it was not exempt under IRC 501(c)(3).

[REDACTED]

The information you have submitted and as cited in this letter establishes that some of your activities are of a charitable nature. However, the data establishes that your primary activity, █% of your income and █% of your expenses, is the construction and operation of the █, owned by the █, would not be a charitable activity within the purview of section 501(c)(3) of the Internal Revenue Code.

Accordingly, we conclude that you are not entitled to recognition of exemption from Federal income tax under section 501(c)(3) of the Code or under any other section of the Code.

Since you have not been granted exemption from Federal income tax you are required to file Federal income tax returns on Form 1120 for all past years for which a return has not been filed. File these returns with your key District Director for exempt organizations in Baltimore, Maryland within 60 days from the date of this letter, unless a request for an extension of time is granted. We will not delay processing of income tax returns and assessment of any taxes due because of your bringing suit for declaratory judgment under Code section 7428. File returns for all subsequent years with the appropriate service center indicated in the instructions for those returns.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office or, if you request, at any mutually convenient District office. If we do not hear from you within 30 days of the date of this letter, this determination will become final.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7.28(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service".

Sincerely yours,

[REDACTED]
District Director

Enclosure